

Department of Legislative Services
 Maryland General Assembly
 2010 Session

FISCAL AND POLICY NOTE

House Bill 1047

(Delegate McComas, *et al.*)

Judiciary

Family Law - Protective Orders - Annual Report

This bill requires the Governor’s Office of Crime Control and Prevention (GOCCP) to compile an annual report on the number of temporary protective orders that result in a final protective order. The bill specifies the content of the report, including data relating to gender of the person seeking the order; violations, assaults, and homicides by respondents; and weapons involved in assaults and homicides by respondents. GOCCP must submit each annual report to the Governor and the General Assembly by December 31 of each year and make the report available to the public on request.

Fiscal Summary

State Effect: General fund expenditures increase by \$73,600 in FY 2011. Future years reflect annualization and inflation. Revenues are not affected.

(in dollars)	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	73,600	95,500	99,700	104,000	108,600
Net Effect	(\$73,600)	(\$95,500)	(\$99,700)	(\$104,000)	(\$108,600)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: The respondent named in a temporary protective order must have the opportunity for a hearing on whether a judge should issue a final protective order. A

final protective order hearing must be held no later than seven days after the temporary protective order is served on the respondent.

If the respondent appears before the court at a protective order hearing, or has been served with an interim or temporary protective order, or the court has personal jurisdiction over the respondent, the judge may proceed with the final protective order hearing. If the judge finds by clear and convincing evidence that the alleged abuse has occurred or if the respondent consents to the entry of a protective order, the judge may issue a final protective order for relief from abuse to the petitioner. In cases where both parties file petitions for relief from abuse, the judge may issue mutual protective orders if the judge finds by clear and convincing evidence that abuse has occurred. However, the judge may issue the mutual protective orders only after a detailed finding of fact that both parties acted primarily as aggressors and neither party acted primarily in self-defense.

All relief granted in a final protective order is effective for the period stated in the order, generally up to a maximum of 12 months. A final protective order may be issued for up to two years if it is issued against a respondent for an act of abuse committed within one year after the date that a prior final protective order issued against the same respondent on behalf of the same person eligible for relief expired, if the prior final protective order was issued for a period of at least six months. In limited circumstances specified by statute, the court may issue a permanent protective order that requires the respondent to refrain from abusing or threatening to abuse the person eligible for relief or refrain from contacting, attempting to contact, or harassing the person eligible for relief.

A subsequent circuit court order pertaining to any of the provisions in the final protective order supersedes those provisions in the final protective order. A final protective order may be modified or rescinded during its term after giving notice to all affected persons eligible for relief and the respondent and after holding a hearing. For good cause shown, a judge may extend the term of a protective order for six months beyond the specified period after giving notice to all affected persons eligible for relief and the respondent and after a hearing.

Background: According to the Administrative Office of the Courts, in fiscal 2009 the circuit courts conducted 3,862 final protective order hearings and granted 1,758 final protective orders. In fiscal 2009 the District Court conducted 15,821 final protective order hearings and granted 9,090 final protective orders.

According to GOCCP, the Judiciary's Judicial Information System has a database and central repository for protective order data. The Judiciary publishes an annual report that outlines the number of temporary and final protective orders requested and granted by the District Court and the circuit courts. However, much of the data required under the bill is not currently tracked or compiled by JIS, and some is not considered to be public

information. In addition, the bill does not require the courts or law enforcement agencies to collect the data covered under the bill or to submit that data to GOCCP.

State Expenditures: General fund expenditures increase by \$73,600 in fiscal 2011, which accounts for the bill's October 1, 2010 effective date. This estimate reflects the cost of hiring 2 contractual statistical analysts to research court databases, court files, and police reports manually and program a repository to track respondent criminal activity. It includes only the contractual salaries and fringe benefits. Future year expenditures reflect full salaries with 4.4% annual increases and 6.8% employee turnover.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Governor's Office of Crime Control and Prevention, Department of Legislative Services

Fiscal Note History: First Reader - March 3, 2010
mlm/kdm

Analysis by: Guy G. Cherry

Direct Inquiries to:
(410) 946-5510
(301) 970-5510